

REMARKS/ARGUMENTS

Claims 20, 23-27 and 38 are pending. By this Amendment, claims 19, 21 and 22 have been canceled without prejudice or disclaimer. The remaining claims have been amended.

Claims 19-27 and 38 are rejected under 35 USC 112, first and second paragraphs. The Examiner asserts that the claim term "signal" is vague and is not described in the specification.

However, merely because the specification does not use the word "signal" does not mean that the specification does not provide support for the claim limitations. Nevertheless, applicants have amended their claims to use different terminology, and request the Examiner to withdraw this rejection.

Claims 20 and 38 are rejected under 35 USC 102(b) as being anticipated by Churchill, U.S. Patent No. 7,461,022. This rejection is respectfully traversed.

Claim 20 has been amended to be in independent form and recites "said automatically extending further extends said already extended end time upon receiving signals over the network representing additional bids after said end time has been extended." Churchill is silent with respect to any such feature.

Churchill discloses “auto-extension” where, during the course of the auction, if bids are submitted in the last X minutes (e.g., last 5 minutes until closing), the system will extend the auction for another Y minutes (see col. 44, lines 38-42). Churchill does not specifically disclose further extending an already extended end time upon receiving an additional bid. Claim 20 is therefore allowable.

Claim 38 recites “in response to a bid received before the end of an auction style listing, allowing authorized sellers to accept bids and unilaterally end auction-style listings before said end times.” Although the Examiner asserts that Churchill teaches this feature, the Examiner fails to point out specifically where Churchill teaches this feature or any of the features of claim 38. Regardless, Churchill fails to teach or suggest the feature of allowing authorized sellers to accept bids and unilaterally end the auction before the predetermined end time.

Claim 23 stands rejected under 35 USC 103(a) as being unpatentable over Churchill in view of Walker, U.S. Patent Publication No. 2002/0147663. This rejection is respectfully traversed.

The Examiner asserts that Walker teaches the feature of “receiving signals [requests] allowing sellers to specify whether items are to be listed in said database as conditional or binding transactions.” Applicants

respectfully disagree. Walker teaches that the customer makes an offer to purchase an item and that offer may be a binding offer or a conditional offer. However, Walker does not teach that it is the seller who specifies whether the items to be listed are listed as conditional or binding transactions. Thus, Walker fails to disclose that which the Examiner asserts and this rejection should be withdrawn.

Claim 24 stands rejected under 35 USC 103(a) as being unpatentable over Churchill as applied to claim 23, and further in view of Elias, U.S. Patent Publication No. 2001/0034694. This rejection is respectfully traversed.

Claim 24 recites "allowing sellers, through automatic interaction with the computer system, to select item listings and flexibly change selected item listings between said classified advertising and said auction-style listing formats." Although the Examiner asserts that Elias teaches this feature, applicants submit that neither Churchill nor Elias teach or suggest this feature.

Elias teaches a transaction manager 11 and states that it is this transaction manager which, if an item in a classified does not sell at a certain price in a certain number of days, switches the item to be an auction type item. Elias does not disclose that the seller can change a listing from

a classified to an auction-type listing through automatic interaction with the computer system. Thus, Elias fails to teach that which the Examiner asserts and this rejection should be withdrawn.

Claims 25-27 stand rejected under 35 USC 103(a) as being unpatentable over Churchill as applied to claim 23, and further in view of Fujiwara, U.S. Patent Publication No. 2001/0027433 and Gujral, U.S. Patent Publication No. 2002/0042769 and Applicant Admitted Prior Art (Official Notice taken in previous Office Action). This rejection is respectfully traversed.

The Examiner acknowledges that Churchill fails to teach or suggest the feature of "allowing sellers whose items have been bid upon to use the network to issue offers to sell items users have bid on while temporarily suspending auction-style listings for predetermined durations, thereby preventing other users from submitting bids on said suspended auction-style listings when corresponding unaccepted offers to sell from sellers to users for said items are outstanding." However, the Examiner asserts that Gujral discloses allowing a seller to accept a bid prior to the close of the auction and notify other bidders that the auction is closed. Applicants submit that what Gujral actually teaches is quite different than what has been claimed. Gujral teaches that the auction may close if the buyer 10 is

ready to accept a bidder's set of bids or if the predetermined auction period ends. Accepting a bid to complete the auction is not the same as making a separate offer to sell the auction item to one of the bidders. Gujral does not teach allowing a seller to issue an offer to a bidder. Fujiwara likewise fails to teach or suggest allowing a seller to issue an offer to a bidder. Thus, none of the cited references, either alone or in combination, teaches the features of claim 25.

Claims 26 and 27 are allowable at least due to their respective dependencies. Applicants request that this rejection be withdrawn.

All outstanding issues have been addressed and this application is in condition for allowance. Should any minor issues remain outstanding, the Examiner should contact the undersigned at the telephone number listed below so they can be resolved expeditiously without need of a further written action.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

DABNEY et al.
Appl. No. 10/659,746
July 6, 2009

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /Robert W. Faris/
Robert W. Faris
Reg. No. 31,352

RWF:ejs
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100